

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-253-C - ORDER NO. 2002-825

DECEMBER 9, 2002

IN RE: Petition of BellSouth Telecommunications, Inc. for Declaratory Regarding Nextel's Service Request.) ORDER GRANTING) PETITION TO) INTERVENE OUT OF) TIME AND GRANTING) MOTIONS TO HOLD) MATTER IN ABEYANCE
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This matter comes before the Public Service Commission of South Carolina ("Commission") on the Petition to Intervene Out of Time filed by Sprint Corporation on behalf of its wireless division, Sprint Spectrum L.P. d/b/a Sprint PCS and on various motions to hold the matter in abeyance. Specifically, Nextel Communications, Inc. ("Nextel") filed a Motion to Dismiss or in the Alternative Hold in Abeyance and Request for Hearing, and Alltel Communications, Inc. moved to hold the matter in abeyance.

On July 25, 2002, BellSouth Telecommunications, Inc. ("BellSouth") filed a Petition for Declaratory Order in which BellSouth requested that the Commission interpret Section A35.1.1 of BellSouth's General Subscriber Services Tariff and determine whether the provision of trunking by BellSouth associated with the NPA/NXX that Nextel has assigned to the Moncks Corner rate center, which is served by Home Telephone Company, is in compliance with BellSouth's tariff. Thereafter, the Commission's Executive Director instructed BellSouth to publish a prepared Notice of

Filing regarding BellSouth's Petition. In response to the Notice of Filing, several parties intervened in the proceeding.

On October 22, 2002, Sprint Corporation on behalf of its wireless division, Sprint Spectrum L.P. d/b/a Sprint PCS ("Sprint") filed written comments in opposition to BellSouth's Petition. In those written comments, which were filed within the timeframe for intervention, Sprint did not request formal intervenor status in the proceeding. Thereafter, on October 28, 2002, which was after the return date established by the Notice of Filing, Sprint filed a Petition to Intervene Out of Time by which Sprint seeks formal intervenor status in the proceeding. By its Petition to Intervene Out of Time, Sprint asserts that the issues raised by BellSouth's Petition will affect the substantial interests of the wireless industry, and more particularly Sprint, and that no other party will adequately represent Sprint's rights and interests in the proceeding. Further, Sprint offers that inadvertence resulted in Sprint not filing and serving the requisite Petition to Intervene concurrently with its timely filed written comments and that no prejudice will result from allowing Sprint to intervene in the proceedings out of time.

On October 22, 2002, Nextel filed a Petition to Intervene and a Motion to Dismiss or in the Alternative Hold in Abeyance and Request for Hearing. Nextel moved to dismiss BellSouth's Petition on the grounds that the Petition is deficient in that it fails to comport to applicable Commission Regulations and in that the Commission lacks jurisdiction over the subject matter of the Petition. In the alternative, Nextel request that the Commission hold this proceeding in abeyance pending a ruling from the Federal Communications Commission ("FCC") on Petition for Declaratory Ruling Regarding the

Routing and Rating of Traffic by ILECS filed by Sprint at the FCC. According to Nextel, the Sprint Petition before the FCC was filed prior to the time that BellSouth filed the Petition in the instant docket with the Commission and that Sprint's FCC Petition seeks a declaratory ruling of the current rules and regulations pertaining to an ILEC's obligation to honor the routing and rating point CMRS carriers designate for their NXX codes – the same issue raised in BellSouth's Petition.

Also on October 22, 2002, Alltel Communications, Inc. and Alltel South Carolina, Inc. (collectively "Alltel") filed a Petition to Intervene and Motion to Hold in Abeyance. By its Motion to Hold In Abeyance, Alltel also informs the Commission of the Sprint Petition pending before the FCC and urges this Commission to await the FCC's resolution of the Sprint Petition.

Based upon the foregoing, the Commission finds and concludes that:

1. Sprint's Petition to Intervene Out of Time should be granted as Sprint has provided an explanation showing sufficient interest in the proceeding which cannot be adequately represented by any other party. Further, the Commission discerns no prejudice to any party by granting Sprint's Petition to Intervene Out of Time.

2. The Motions to Hold in Abeyance filed by Nextel and Sprint are granted. We find it reasonable and appropriate to hold the instant matter in abeyance at this time and await a decision by the FCC of Sprint's Petition before the FCC. The Commission has reason to believe that Sprint's Petition before the FCC is nearing a posture that will result in a resolution in the near future. Should a decision by the FCC not be forthcoming

or not be in an expeditious manner, BellSouth may request this Commission to lift the instant Order holding the Petition for Declaratory Order in abeyance.

3. Likewise, Nextel's Motion to Dismiss is held in abeyance at this time.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn
Chairman

ATTEST:



Gary E. Walsh
Executive Director

(SEAL)